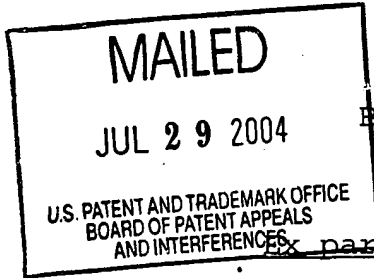


UNITED STATES PATENT AND TRADEMARK OFFICE



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
\_\_\_\_\_

~~Ex parte~~ ANTHONY F. HERBST and WAYNE F. PERG  
\_\_\_\_\_

Application No. 09/197,908  
\_\_\_\_\_

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER  
\_\_\_\_\_

This application was received at the Board of Patent Appeals and Interferences on June 17, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On August 31, 2001, appellants filed a Declaration (Paper No. 11). There is no indication from the record as to whether the examiner has considered the Declaration (Paper No. 11).

Moreover, appellants filed both a Notice of Appeal on November 19, 2002 (Paper No. 16) and an Appeal Brief on March 4, 2003 (Paper No. 18). A review of the file reveals that the requisite fee of \$160.00 (small entity fee) for filing a Notice of Appeal and Appeal Brief have not been charged. The

Application No. 09/197,908

examiner should have the appropriate fee charged to Deposit Account No. 50-0235.

Accordingly, it is

ORDERED that the application is returned to the examiner to consider appellants' Declaration filed on August 31, 2001 (Paper No. 11), to notify appellants in writing of consideration, to have the requisite fee of \$160 for filing both the Notice of Appeal (Paper No. 16) and Appeal Brief (Paper No. 18) to Deposit Account No. 50-0235, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



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DMS/clm/dm  
RA04-0693